



General Assembly

Substitute Bill No. 833

January Session, 2011

* ____SB00833ENV__031011__ *

**AN ACT CONCERNING THE APPROVAL AND SITING OF CERTAIN
TELECOMMUNICATIONS TOWER APPLICATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-50x of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Notwithstanding any other provision of the general statutes,
4 except as provided in section 16-243 and this section, the council shall
5 have exclusive jurisdiction over the location and type of facilities and
6 over the location and type of modifications of facilities subject to the
7 provisions of subsection (d) of this section. When evaluating an
8 application for a [telecommunication] telecommunications tower
9 within a particular municipality, the council shall consider any
10 location preferences or criteria (1) provided to the council pursuant to
11 section 16-50gg, or (2) that may exist in the zoning regulations of said
12 municipality as of the submission date of the application to the council.
13 When evaluating an application for a telecommunications tower to be
14 sited not more than two hundred fifty yards from a residential
15 dwelling, place of worship, school or day care center, the council shall
16 not approve or certify such application unless: (A) Such applicant has
17 the approval of the planning and zoning commission of the
18 municipality where such telecommunications tower is proposed to be
19 located, or (B) the municipality where such telecommunications tower

20 is proposed to be located, by vote of its legislative body, yielded the
21 approval authority described in subparagraph (A) of this subsection to
22 the council for such application. In ruling on applications for
23 certificates or petitions for a declaratory ruling for facilities and on
24 requests for shared use of facilities, the council shall give such
25 consideration to other state laws and municipal regulations as it shall
26 deem appropriate. Whenever the council certifies a facility pursuant to
27 this chapter, such certification shall satisfy and be in lieu of all
28 certifications, approvals and other requirements of state and municipal
29 agencies in regard to any questions of public need, convenience and
30 necessity for such facility.

31 (b) Whenever the council has certified a facility pursuant to this
32 chapter, any person joining in the application for such certification
33 shall be empowered to exercise its powers of eminent domain, granted
34 by the general statutes or any special act, to acquire property for such
35 facility for the benefit of all persons receiving such certificates.

36 (c) Whenever the council has certified a facility pursuant to this
37 chapter and the applicant for such certificate thereafter initiates
38 condemnation proceedings to acquire property for such facility, and it
39 shall appear to the court or judge before whom such proceedings are
40 pending that the public interest will be prejudiced by delay, said court
41 or judge may direct that said applicant be permitted to enter
42 immediately upon the property to be taken and devote it temporarily
43 to the public use specified in the application instituting such
44 proceeding upon the deposit with said court of a sum to be fixed by
45 said court or judge, upon notice to the parties of not less than ten days,
46 and such sum when fixed and paid shall be applied to the payment of
47 any assessment of damages which may be made, with interest thereon
48 from the date of such entry upon said property, and the remainder, if
49 any, returned to said applicant. If such application is dismissed, no
50 assessment of damages is made, or the proceedings are abandoned by
51 said applicant, said court or judge shall direct that the money so
52 deposited, so far as it may be necessary, shall be applied to the
53 payment of any damages that the owner of said property or other

54 parties in interest may have sustained by such entry upon and use of
55 such property, including reasonable attorneys', engineers' and
56 appraisers' fees and other reasonable expenses incurred by such owner
57 or other parties in interest in connection with such proceedings, and
58 the costs and expenses of such proceedings. Such damages shall be
59 ascertained by said court or judge or a committee to be appointed for
60 that purpose, and if the sum so deposited shall be insufficient to pay
61 such damages and all costs and expenses so assessed, judgment shall
62 be entered against said applicant for the deficiency to be enforced and
63 collected in the same manner as a judgment in the Superior Court, and
64 the possession of such property shall be restored to the owner or
65 owners thereof.

66 (d) Any town, city or borough zoning commission and inland
67 wetland agency may regulate and restrict the proposed location of a
68 facility, as defined in subdivisions (3) and (4) of subsection (a) of
69 section 16-50i. Such local bodies may make all orders necessary to the
70 exercise of such power to regulate and restrict, which orders shall be in
71 writing and recorded in the records of their respective communities,
72 and written notice of any order shall be given to each party affected
73 thereby. Such a local body shall make any such order (1) not more than
74 sixty-five days after an application has been filed with the council for
75 the siting of a facility described in subdivision (3) of subsection (a) of
76 section 16-50i, or (2) not more than thirty days after an application has
77 been filed with the council for the siting of a facility described in
78 subdivision (4) of subsection (a) of section 16-50i. Each such order
79 shall be subject to the right of appeal within thirty days after the giving
80 of such notice by any municipality required to be served with a copy of
81 the application under subdivision (1) of subsection (b) of section 16-50i
82 or by any party aggrieved to the council, which shall have jurisdiction,
83 in the course of any proceeding on an application for a certificate or
84 otherwise, to affirm, modify or revoke such order or make any order in
85 substitution thereof by a vote of six members of the council.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2011</i>	16-50x
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ENV *Joint Favorable Subst.*